

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 2, 2005

IN RE:	)	
	)	
APPLICATION OF BRISTOL TENNESSEE	)	DOCKET NO.
ESSENTIAL SERVICES FOR A	)	05-00251
CERTIFICATE OF PUBLIC CONVENIENCE	)	
AND NECESSITY TO PROVIDE COMPETING	)	
TELECOMMUNICATIONS SERVICES WITHIN	)	
THE STATE OF TENNESSEE	)	

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ORDER GRANTING PETITIONS FOR INTERVENTION

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This matter came before the Hearing Officer upon the *Petition of BellSouth Telecommunications, Inc for Leave to Intervene* filed on September 30, 2005 by BellSouth Telecommunications, Inc. ("BellSouth") and the *Petition to Intervene* filed by United Telephone-Southeast, Inc. ("UTSE") on October 5, 2005

**BACKGROUND**

On September 12, 2005, Bristol Tennessee Essential Services ("BTES") filed the *Application for Certificate of Convenience and Necessity to Provide Competing Telecommunications Services* ("*Application*") According to the *Application*, BTES is a municipal electric system created in 1945 by the City of Bristol as a five (5) member board of public utilities pursuant to the Municipal Electric Plant Law of 1935.<sup>1</sup> BTES has a fiber optic system, which it is extending with a fiber-to-home network architecture in its service area in and around Bristol, Tennessee.<sup>2</sup> BTES states that it will provide telephone and regulated telecommunications services through a separate business unit within

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<sup>1</sup> *Application*, p 2 (September 12, 2005)

<sup>2</sup> *Id*

BTES, the Telephone Business Unit.<sup>3</sup> BTES is requesting that the TRA grant it authority to provide competing local telecommunications services, including exchange access telecommunications services, within the State of Tennessee.<sup>4</sup>

During a regularly scheduled Authority Conference held on October 17, 2005, Director Deborah Taylor Tate, Director Pat Miller and Director Sara Kyle, the voting panel assigned to this docket, unanimously voted to appoint the General Counsel or his designee to act as Hearing Officer in this proceeding for the purpose of ruling on the pending interventions once responses are filed, handling preliminary matters and setting a procedural schedule to prepare the case for hearing.<sup>5</sup>

### INTERVENTION

Tenn. Code Ann. § 4-5-310(a) (2005) sets forth the following criteria for granting petitions to intervene:

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if

(1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing,

(2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and

(3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention

In its petition for intervention, BellSouth states that BTES is seeking approval to provide telecommunications services in competition with BellSouth.<sup>7</sup> BellSouth further asserts that it has a "direct and substantial interest in the manner in which municipal applicants such as BTES propose to

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<sup>3</sup> *Id.* at 4

<sup>4</sup> *Id.* at 1

<sup>5</sup> See Transcript of Authority Conference, pp 27-28 (October 17, 2005)

<sup>7</sup> *Petition of BellSouth Telecommunications, Inc. for Leave to Intervene*, p 1 (September 30, 2005)

comply with the competitive safeguards and other requirements set forth principally at T C A. § 7-52-401, *et seq.*”<sup>8</sup> BellSouth also contends that its legal interests may be determined in the proceeding, that its interests will not be adequately protected unless it is allowed to intervene and that its intervention will not impair the interests of justice or the orderly and prompt conduct of these proceedings<sup>9</sup>

The Hearing Officer finds that the legal rights and interests of BellSouth may be determined in this proceeding, BellSouth’s petition is timely and its intervention will not impair the interests of justice and the orderly and prompt conduct of these proceedings. In addition, BTES has not objected to BellSouth’s petition for intervention. For these reasons, and applying the standards set forth in Tenn. Code Ann. § 4-5-310(a) (2005), the Hearing Officer grants the *Petition of BellSouth Telecommunications, Inc for Leave to Intervene*.

UTSE states in its petition for intervention that BTES is seeking to provide services in Bristol, Tennessee and a portion of Sullivan County, Tennessee and will therefore be in competition with UTSE.<sup>10</sup> Also, UTSE states that “BTES seeks a grant of statewide authority so that it may provide services outside of its current electric footprint.”<sup>11</sup> As a result, UTSE asserts it has a “direct interest in how municipal applicants such as BTES will comply with the competitive safeguards set forth under Tenn Code Ann. § 7-52-401, *et seq.*”<sup>12</sup> UTSE also contends that its intervention will not impair the interests of justice and the orderly and prompt conduct of these proceedings<sup>13</sup>

The Hearing Officer finds that the legal rights and interests of the UTSE may be determined in this proceeding, UTSE’s petition is timely and its intervention will not impair the interests of justice and the orderly and prompt conduct of these proceedings. In addition, BTES has not objected

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<sup>8</sup> *Id*

<sup>9</sup> *Id* at 2.

<sup>10</sup> *Petition to Intervene*, p 1 (October 5, 2005)

<sup>11</sup> *Id.*

<sup>12</sup> *Id*

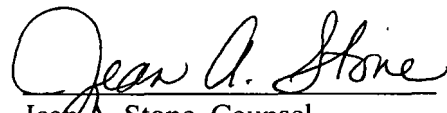
<sup>13</sup> *Id* at 2

to BellSouth's petition for intervention. For these reasons, and applying the standards set forth in Tenn. Code Ann. § 4-5-310(a) (2005), the Hearing Officer grants UTSE's *Petition to Intervene*.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition of BellSouth Telecommunications, Inc. for Leave to Intervene* filed by BellSouth Telecommunications, Inc. on September 30, 2005 is granted. BellSouth may participate in this proceeding as its interests require and receive copies of any notices, orders or other documents filed herein.

2 The *Petition to Intervene* filed by United Telephone-Southeast, Inc. on October 5, 2005 is granted. UTSE may participate in this proceeding as its interests require and receive copies of any notices, orders or other documents filed herein.

  
Jean A. Stone, Counsel  
as Hearing Officer